

# SENATE RECORD VOTE ANALYSIS

104th Congress  
1st Session

Vote No. 68

February 14, 1995, 7:14 p.m.  
Page S-2638 Temp. Record

## BALANCED BUDGET AMENDMENT/Constitutionally Limiting Campaign Funds

**SUBJECT:** A Resolution Proposing a Balanced Budget Amendment to the Constitution of the United States . . . H.J. Res. 1. Hatch motion to table the Hollings amendment No. 241.

### ACTION: MOTION TO TABLE AGREED TO, 52-45

**SYNOPSIS:** Pertinent votes on this legislation include Nos. 62-63, 65-67, and 69-98.

As passed by the House, H.J. Res. 1, a resolution proposing a Balanced Budget Amendment to the Constitution, is virtually identical to the balanced budget constitutional amendment that was considered last year by the Senate (see 103d Congress, second session, vote Nos. 47-48). The resolution: will require a three-fifths majority vote of both Houses of Congress to deficit spend or to increase the public debt limit; will require the President's annual proposed budget submission to be in balance; and will require a majority of the whole number of each House to approve any bill to increase revenue. Congress will be allowed to waive these requirements for any fiscal year in which a declaration of war is in effect. Congress will enforce and implement this amendment by appropriate legislation. The amendment will take effect in fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later. The States will have 7 years to ratify the amendment.

**The Hollings amendment** would add to the resolution the following new article to be added to the Constitution (this article would be separately enrolled and submitted to the States for ratification if passed by Congress):

- Congress will have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to Federal office;
- each State will have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to State office;
- each local government of general jurisdiction will have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to office in that government, and no State will have power to limit this local power; and
- Congress will have power to implement and enforce this article by appropriate legislation.

(See other side)

YEAS (52)			NAYS (45)			NOT VOTING (3)	
Republicans (49 or 96%)		Democrats (3 or 7%)	Republicans (2 or 4%)	Democrats (43 or 93%)		Republicans (2)	Democrats (1)
Abraham	Hatfield	Feingold	Shelby	Akaka	Hollings	Helms- <sup>2AY</sup>	Moynihan- <sup>2</sup>
Ashcroft	Hutchison	Heflin	Specter	Baucus	Inouye	Kassebaum- <sup>2</sup>	
Bennett	Inhofe	Simon		Biden	Johnston		
Bond	Jeffords			Bingaman	Kennedy		
Brown	Kempthorne			Boxer	Kerrey		
Burns	Kyl			Bradley	Kerry		
Chafee	Lott			Breaux	Kohl		
Coats	Lugar			Bryan	Lautenberg		
Cochran	Mack			Bumpers	Leahy		
Cohen	McCain			Byrd	Levin		
Coverdell	McConnell			Campbell	Lieberman		
Craig	Murkowski			Conrad	Mikulski		
D'Amato	Nickles			Daschle	Moseley-Braun		
DeWine	Packwood			Dodd	Murray		
Dole	Pressler			Dorgan	Nunn		
Domenici	Roth			Exon	Pell		
Faircloth	Santorum			Feinstein	Pryor		
Frist	Simpson			Ford	Reid		
Gorton	Smith			Glenn	Robb		
Gramm	Snowe			Graham	Rockefeller		
Grams	Stevens			Harkin	Sarbanes		
Grassley	Thomas				Wellstone		
Gregg	Thompson						
Hatch	Thurmond						
	Warner						

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Debate was limited by unanimous consent. Following debate, Senator Hatch moved to table the Hollings amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**Those favoring** the motion to table contended:

The Hollings amendment would amend the Constitution to restrict the right to free speech, which has withstood assaults against it for the past 200 years. Groups and individuals from across the political spectrum have denounced this blatant attempt to stifle the most important of all speech in a republic--political speech. In the marketplace of ideas that is the lifeblood of a free country, everyone must be free to speak his or her mind. In politics, money is needed to communicate with the voters--television commercials, radio ads, mailings, flyers, and other methods of communicating all cost money. The Supreme Court, in its 1974 *Buckley v. Valeo* decision, wisely recognized this fact when it ruled that any restriction on campaign spending that is not strictly voluntary is an unconstitutional restriction on the right to free speech.

The government has no business limiting the total amount of money that any candidate can spend, nor does it have any business limiting the amount of money that can be raised in opposition to a candidate, because any such limits are limits on the right to speech. Individual or group contribution limits to a candidate that are so large that they give the appearance of being a bribe can be limited to protect faith in the democratic process. However, if a candidate is not popular enough to raise as much for advertising as he or she wishes, it is not the place of the government to suppress funding for a more popular candidate to "level the playing field." Such a practice would undermine the very basis of a democracy. By suppressing the more popular candidate's ability to raise money, it would suppress that more popular candidate's chances of getting his or her message to the voters, and would thus hurt his or her chances of winning. Similarly, if a candidate supports policies that are opposed by outside groups or media, the government has no business setting a limit on the amount of negative advertising that it believes is "fair" to "poor" candidates. For example, no government should be allowed to stop newspapers from publishing editorials against a candidate if the value of those editorials would cause the "fair" amount of negative advertising against that candidate to be exceeded.

For us, the issue is clear. The Hollings amendment would amend the Constitution for the first time ever to limit free speech. In so doing it would seriously damage our republican foundation by limiting political speech and thus corrupting the outcome of elections. It is a tremendously destructive amendment that merits our thunderous rejection.

**Those opposing** the motion to table contended:

The Hollings amendment has been offered in an attempt to undo the unjust 1974 *Buckley v. Valeo* decision. In that decision, the Supreme Court equated campaign spending with free speech, and held that it therefore cannot be limited. We believe that decision goes against the egalitarian ethos of this country, because it follows that those candidates who have more money have more free speech. Rich people should not have any greater right to be heard than poor people. The Hollings amendment would make it constitutionally permissible for Federal, State, and local governments to set campaign spending limits in order to level the playing field between rich and poor candidates.

This amendment has not been offered to in any way slow the consideration of the balanced budget amendment, or even to in any way affect its consideration. If both Houses were to agree to it, it would be separately enrolled and submitted to the States for ratification. Thus, consideration of the Hollings amendment would not affect the ratification of the balanced budget amendment. The only reason it has been offered to this resolution is because it is a convenient, and extremely rare, vehicle. Joint resolutions proposing constitutional amendments are very uncommon in the Senate. Amendments proposing constitutional amendments, however, are only in order under the rules to such joint resolutions. Thus, the Hollings amendment has been offered now only because it is likely that any similar opportunity to offer it will be a long time in coming.

We find the objections that have been raised to the Hollings amendment to be massively overstated. Our colleagues act as if the application of the first amendment has remained unchanged for 200 years. However, it has been continuously interpreted and reinterpreted by both statute and court decisions. The *Buckley v. Valeo* decision which the Hollings amendment would overturn in fact was a split decision that overturned statutory limits on congressional campaign spending. We think that decision was wrong, and that Congress is long overdue in attempting to fix the Court's error. We therefore strongly oppose this motion to table the Hollings amendment.